

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

MEDIOSTREAM, INC.,	§	
	§	
Plaintiff,	§	
v.	§	
	§	Civil Action No. 2:08-cv-369 (CE)
MICROSOFT CORPORATION,	§	
	§	JURY TRIAL DEMANDED
Defendant.	§	
	§	
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MEDIOSTREAM, INC.,	§	
	§	
Plaintiff,	§	
v.	§	Civil Action No. 2:07-cv-376 (CE)
	§	
ACER AMERICA CORPORATION, et al.,	§	JURY TRIAL DEMANDED
	§	
Defendants.	§	

DOCKET CONTROL ORDER

It is hereby ORDERED that the following schedule of deadlines is in effect for Plaintiff
MedioStream, Inc. and Defendant Microsoft Corporation until further order of this Court:

January 4, 2011	Jury Selection - 9:00 a.m. in Marshall, Texas
December 28, 2010	Pretrial Conference - 1:30 p.m. in Marshall, Texas
December 14, 2010	Joint Pretrial Order, Joint Proposed Jury Instructions and Form of the Verdict.
December 14, 2010	Motions in <i>Limine</i> Due

The parties are ordered to **meet and confer** on their respective motions

in limine and advise the court of any agreements in this regard by 3:00 p.m. the business day before the pretrial conference. The parties shall limit their motions *in limine* to those issues which, if improperly introduced into the trial of the case would be so prejudicial that the court could not alleviate the prejudice with appropriate instruction(s).

December 7, 2010

Notice of Request for Daily Transcript or Real Time Reporting of Court Proceedings. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Susan Simmons, at ssimmons@yahoo.com.

November 12, 2010

Response to Dispositive Motions (including *Daubert* motions)¹

Responses to dispositive motions filed prior to the dispositive motion deadline, including *Daubert* Motions, shall be due in accordance with Local Rule CV-7(e). Motions for Summary Judgment shall comply with Local Rule CV56.

October 22, 2010

For Filing Dispositive Motions and any other motions that may require a hearing (including *Daubert* motions)

December 3, 2010

Mediation to be completed

November 5, 2010

Parties to Identify Rebuttal Trial Witnesses

October 22, 2010

Party with Burden of Proof to Identify Trial Witnesses

October 15, 2010

Discovery Deadline

_____ 30 Days after claim construction ruling Designate Rebuttal Expert Witnesses other than claims construction Expert witness report due Refer to Discovery Order for required information.

_____ 15 Days after claim construction ruling Comply with P.R. 3-7.

_____ 15 Days after claim construction ruling Party with the burden of proof to designate Expert Witnesses other than claims construction Expert

¹ The parties are directed to Local Rule CV-7(d), which provides in part that "[i]n the event a party fails to oppose a motion in the manner prescribed herein the court will assume that the party has no opposition." Local Rule CV-7(e) provides that a party opposing a motion has **12 days, in addition to any added time permitted under Fed. R. Civ. P. 6(e)**, in which to serve and file a response and any supporting documents, after which the court will consider the submitted motion for decision.

witness report due Refer to Discovery Order for required information.

August 4, 2010	Claim construction hearing 9:00 a.m., Marshall, Texas.
June 18, 2010	Comply with P.R. 4-5(c).
May 17, 2010	Comply with P.R. 4-5(b).
April 6, 2010	Comply with P.R. 4-5(a).
March 5, 2010	Discovery deadline-claims construction issues
March 5, 2010	Respond to Amended Pleadings
February 12, 2010	Amend Pleadings (It is not necessary to file a Motion for Leave to Amend before the deadline to amend pleadings except to the extent the amendment seeks to add a new patent in suit. It is necessary to file a Motion for Leave to Amend after the Amended Pleadings date set forth herein.)
December 14, 2009	Comply with P.R. 4-3.
September 8, 2009	Privilege Logs to be exchanged by parties.
August 7, 2009	Comply with P.R. 4-2.
May 8, 2009	Comply with P.R. 4-1.
April 24, 2009	Comply with P.R. 3-4. Rolling document production to start and end within 60 days.
April 3, 2009	Comply with P.R. 3-3.
February 27, 2009	Parties' FRCP 26(a)(1) initial disclosures.
January 30, 2009	Join Additional Parties

January 30, 2009 Comply with P.R. 3-2.

January 30, 2009 Comply with P.R. 3-1.

OTHER LIMITATIONS

1. All depositions to be read into evidence as part of the parties' case-in-chief shall be **EDITED** so as to exclude all unnecessary, repetitious, and irrelevant testimony; **ONLY** those portions which are relevant to the issues in controversy shall be read into evidence.
2. The Court will refuse to entertain any motion to compel discovery filed after the date of this Order unless the movant advises the Court within the body of the motion that counsel for the parties have first conferred in a good faith attempt to resolve the matter. See Eastern District of Texas Local Rule CV-7(h).
3. The following excuses will not warrant a continuance nor justify a failure to comply with the discovery deadline:
 - (a) The fact that there are motions for summary judgment or motions to dismiss pending;
 - (b) The fact that one or more of the attorneys is set for trial in another court on the same day, unless the other setting was made prior to the date of this order or was made as a special provision for the parties in the other case;
 - (c) The failure to complete discovery prior to trial, unless the parties can demonstrate that it was impossible to complete discovery despite their good faith effort to do so.

SIGNED this 9th day of April, 2009.


CHARLES EVERINGHAM IV
UNITED STATES MAGISTRATE JUDGE